

**INTERNATIONAL ASSOCIATION
OF DEMOCRATIC LAWYERS**

**The Israeli Air-Raids
on the «Palestinian Camps»
in Lebanon**

**Mission of Enquiry
to the Occupied Territories
of the
West Bank and Gaza Strip,**

**BY FRANÇOIS BAILLY (AVOCAT)
AND BILL BOWRING (BARRISTER),**

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THE EXISTENT FACTS AND THE ARGUMENTS USED BY ISRAEL

Since 1975 the Israeli air force has been periodically bombing refugee camps in Lebanon (1).

The Israeli authorities claim that they are legally entitled so to act in «self-defence», since, according to official Israeli spokesmen, the «principle of proportionality» is respected in that due allowance has to be made for all acts of terrorism supposed to have been committed by the PLO in different parts of the world. «The intended target is not the Lebanese state, nor is it the Lebanese people». In 1982 (Le Monde, 15 June), the Israeli foreign minister declared : «... what we want is to have a free and independent Lebanon whose territory is not occupied by alien forces». The purported Israeli aim is to «restore sovereignty to Lebanon». When there are civilian victims this is because the PLO, a «terrorist organization», has made the civilian population its «hostage» (2).

1 - Are the Israeli authorities entitled to invoke the right to self-defence?

- The earliest Israeli raids - like all Israeli military operations - were presented during an initial stage (as they still are in certain cases) as having

been carried out in reply to specific and localized «acts of terrorism». The practice of using individual incidents as grounds for the exercise of the right to «self-defence» has since been progressively abandoned. Little by little the Israelis have come to avail themselves for the purpose of the military operations of the PLO as a whole and of the mere fact that the Organization exists.

To treat the PLO as a terrorist organization is to be guilty of disregard for the observer status granted it by the UN. For the United Nations the PLO is a national liberation movement representing a people and affording a framework for a future state which Israel refuses to recognize. The actions of the PLO are legitimate in that they are intended as means of putting into effect the principle of self-determination for the Palestinian people, within the limits permitted by respect for humanitarian law, and within these limits only.

- Even if we accept the Israeli notion of terrorism, which closely resembles that of the western states, it must be noted that the various conventions (e.g. the European Convention of 1977, §4) and such declarations as the one adopted in Tokyo in 1986 by the seven most highly industrialized countries do not call in question the general principles of international law and cannot provide a basis for a «new» principle of intervention inside a sovereign state or give legitimacy to the use of force. In its interpretation of the question Israel stands entirely alone.

- Israel has no justification for invoking Art. 51 of the Charter.

* Art. 51 involves observance of the «Principle of proportionality» and cannot cover prolonged occupation of a territory (as in South Lebanon); still less does it provide for the *de facto* annexation effected in the extreme south of Lebanon, again in the name of «self-defence».

i. The notion of self-defence (Art. 51) cannot be stretched to include that of «preventive reprisal». In the context of the nuclear «first strike» debate and when the problem is that of taking precautions against a possible nuclear attack, the arguments advanced by Israel may admit of discussion (Cf. The arguments used to justify the Israeli bombing of the nuclear power station in Iraq in 1981). But the argument of «preventive reprisal» cannot be validly used in connection with refugee camps, even should they house armed combatants. Furthermore, it is an argument which did not appear until 1981, whereas the air-raids began in 1975.

- ii. Art. 51 does not make provision for the notion of «indirect armed aggression» as justification for action in self-defence. «Indirect» armed aggression, consisting in the mere fact of «sheltering» armed combatants, cannot provide grounds for acts of self-defence involving the use of armed force and violation of the principle of national sovereignty. Furthermore, the notion of aggression has been defined and the definition leaves no room for the Israeli approach. Art. 7 of this definition specifies : «Nothing in this definition... could in any way prejudice the right to self-determination, freedom and independence... of peoples forcibly deprived of that right».

The fact that the word «threat» should have been, omitted from the definition rules out any possibility that threats, though prohibited by the Charter, may in themselves constitute aggression.

It is clear, last of all, that the Lebanese state has not attempted organized subversion against Israel, and in fact Israel has never claimed anything of the kind; quite the opposite. Yet «indirect aggression» must necessarily involve «the sending *by on behalf of a State* of armed bands... which carry out acts of armed force *against another State* of such gravity as to amount to» aggression.

* Israel interprets Art. 51 in complete isolation from the contexts of the Charter.

- i Art. 51 serves to conclude Chapter VII by adding the final provisions governing the powers of the Security Council in respect of the maintenance of peace. «Self-defence» is not one of the principles of the Charter ranking with the prohibition on the use of force (Art. 2 §4). But by abusive interpretation of the Charter Israel makes it one of its fundamental principles, transforming, in so doing, a technical notion bound up with the UN machinery for the maintenance of peace (which enables a state to take defensive measures pending action by the Security Council) into a basic principle of international law.
- ii. Israel cannot invoke Art. 51, since it is not adopting the UN machinery relating to self-defence : it does not appeal to the Security Council whenever it uses the right to self-defence as its justification. Yet as emphasized by the International Court of Justice (Nicaragua v. United States of America), the presence

or absence of a report to the Security Council is evidence that the state involved is or is not acting in genuine self-defence.

Israel cannot at one and the same time invoke Art. 51 and the right to self-defence and fail to comply with the whole procedure provided for in Art. 51. It may be noted in this connection that Israel is adopting the same attitude as the United States on the bombing of Libya, and as South Africa in similar situations. Israel cannot invoke the notion of «armed reprisals», which was a notion existent in 19th-century law. The Security Council has several times expressly pointed out that reprisals are incompatible with the aims and principles of the United Nations.

Israel has in fact already been several times condemned on these very grounds (Resolution 262 of 1968 on an attack on Beirut airport and Resolutions 265 and 270 of 1969 on «reprisal» attacks on Jordanian and Lebanese villages); it can certainly not avail itself of the notion today in justification of its raids on the Lebanese camps.

2 - Can the Israeli authorities avail themselves of the notion of «counter-measures»?

The United States and other western states, and Israel likewise, are inclined to claim that customary international law recognizes as legal «counter-measures» designed to preserve or reinstate the rights of a state. To an extent this thesis has the support of a state. To an extent this thesis has the support of western doctrine : it is claimed to be a matter of «reacting against illicit occurrences in international society» (Cf. for example c. Leben in the *Annuaire Français du Droit International*, (1982, p.2), and making good the deficiencies in the United Nations system so as «to see that the law is complied with» in whatever circumstances.

This notion of «counter-measures» would seem to have made its appearance in positive law in an award made by an arbitrator on 9 December 1978 in settlement of a Franco-American dispute relating to air services(3); it was declared that each state was entitled to take counter-measures to see that its right was respected. Israel would thus be justified in taking sanctions against «terrorists» settled in Lebanon who were guilty of illicit actions. Such customary-law «counter-measures» provide Israel with a more presentable argument than the notion of self-defence as contained in the Charter. They are not essentially provisional in nature and may even be permanent; self-defence must be exercised immediately

whereas the counter-measure may be taken at the discretion of whoever decides to adopt it - in this instance the state suffering the prejudice - and may be distant in time from the action it is to sanction.

- It remains to be determined how far the notion of the counter-measure exists in law. The United Nations International Law Commission is actually working on the problem. It is a matter of having it clearly acknowledged as a principle in international positive law that a state which has been the victim of an illicit act may take sanctions against the state responsible for the said act. Are we entitled to consider that the fact of its being thus the subject of the attention of a United Nations advisory body of theorists is synonymous with official recognition of the notion in law? May we consider that it represents the re-emergence of a customary notion clearly established in the 19th century?

The question, to say the very least, cannot be answered with certainty.

- In any event, and as held by the International Law Commission itself - particularly by Professor Ago - a counter-measure, even if it has a legal existence, cannot involve the use of armed force. When Israel invokes its right to self-defence; but if it claims to be taking a «counter-measure» it denies itself the right to armed force. Very visibly, Art. 2 § 4 places restrictions on the use of counter-measures.

In basing itself on the right to employ such measures Israel condemns itself to adopting nothing but political, economic and similar sanctions, to the exclusion of military ones.

- Israel has no legal justification for using counter-measures in the name of «respect for law». In the 19th century the great powers, according to the theory worked out by Scelle, acted as the «decentralized institutions» of international société in order to ensure that law was enforced. The use of armed force by states (the major ones, at least) was presented by a large number of western authorities as one of the functions of law. However, the notion of «war in the cause of law» has necessarily disappeared with the proclamation of the principle that the use of armed force is prohibited (Kellogg Pact of 1928, United Nations Charter, etc.) and with the creation of international bodies officially responsible for the maintenance of peace.

Notwithstanding the positions in the matter adopted by the United States, Israel, or others, the incapacity of the Security Council to fulfil its functions completely cannot be made the grounds for restoring to individual states - and least of all to Israel - any sort of authority as «international guardians of the law».

The fact that the machinery instituted under the United Nations Charter is insufficiently effective cannot be used to justify implicit rescinding of the essential provisions of the Charter. Israel's position in this matter is indefensible; the I.C.J., in the Corfu Channel Case, declared that «*whatever the... defects in internationale organization*», the «alleged right of intervention» could not «find a place in international law».

Furthermore, by virtue of the principle of «good faith» and of the fact that under all legal systemes *ex turpi causa non oritur actio*, Israel cannot avail itself of the argument that the security machinery of the UN is ineffective when it is itself to a large extent responsible for that ineffectiveness. Since 1982 the Israeli raids on the camps in Lebanon have been partially launched from the southern portion of the country permanently under Israeli occupation. Hence these raids, illicit in themselves, are being made from bases permanently and illicitly occupied.

Visibly, in fact, the notion of a «counter-measure» as interpreted by Israel, South Africa and the United States is no more than a pseudo-legal clothing for the notion of armed reprisals which has now been proscribed outright.

None but the great powers are genuinely in a position to «take sanctions against illicit conduct». The position adopted by Israel therefore amounts to the awarding of a privilege to those powers which, in practice, can alone act as «the guarantors of public order», in infringement of the principle of the equal sovereignty of states.

3 - Can the Palestinian refugee camps be considered as «places of sanctuary» for international terrorism and as military objectives?

- The refugee camps in Lebanon, which are the targets of the Israeli raids, have since 1950 been centres for UNWRA organized activity. UNWRA has set up different sorts of facilities either inside the camps or in their immediate vicinity.

This is the case, for example, at the Wavell Camp at Baalbek, where the Israeli air-raid on 4 January 1983 - which caused fifteen fatal casualties among the refugees and injured a further 125 people - destroyed several UNWRA buildings including two schools; according to UNRWA itself the material damage caused in the space of three weeks was to be estimated at 235,000 pounds.

The Palestinians living in the 12 camps in Lebanon are registered with UNRWA, which is therefore partially responsible for them (140,037 people were thus registered in 1986). Hence the Israeli raids on the camps in Lebanon cause direct prejudice to UNRWA as an institution, to the

immunity of its personnel and to the registered beneficiaries of the services it provides.

UNRWA is a United Nations agency, set up under a General Assembly resolution passed in 1949 and for almost forty years now regularly empowered by the General Assembly to act on its behalf. It is therefore not just any international organization, nor is it an autonomous body merely belonging to the United Nations «family»; *It is the UN itself*. The repeated Israeli military operations against the camps and against UNRWA are therefore acts of violence against the Organization itself and represent an attempt to cause its paralysis. On Israel's part it is the most utterly flagrant violation of the provisions of the United Nations Charter and an attempt to achieve the material and physical destruction of both facilities and staff. Yet on 14 December 1967 Israel made an agreement with UNRWA in which it explicitly acknowledged the Agency's existence and the legitimacy of its action.

The exact terms in which such conduct is to be qualified have yet to be found; but the gravity of such treatment of the UN is without precedent.

- Moreover, the raids on the refugee camps are open violations of humanitarian law and of the provisions of the Geneva Convention protecting civilian populations. In every raid the civilian casualties are very much in the majority, and mostly of Lebanese nationality(4). Hence for practical reasons the raids cannot be treated as «anti-terrorist» operations; it is impossible to make a distinction between mere civilian inhabitants of the camps and combatants living there - a situation exactly typical of any liberation movement. Similarly, it is impossible to distinguish between Lebanese and Palestinians.

The Israeli authorities are therefore quite deliberately violating humanitarian law and the Geneva Conventions, since the notion of the taking of hostages has no real meaning in the context.

4 - Can the Israeli raids on Lebanon be considered as acts of State terrorism?

In certain conventions strictly regional in scope (such as the European Convention on the Suppression of Terrorism of 1977) acts of terrorism are conceived of as mere individual offences.

But the notion of terrorism, when viewed on a universal plane, also covers acts committed on the initiative of State authorities. Such terrorism is to be identified not with the use of armed force as such by a state, but with the use of force under given conditions(5). Art. 11 of the Draft Code of Crimes against the Peace and Security of Mankind, prepared

under the authority of the United Nations, describes terrorist acts as «criminal acts directed against a State or the population of a State and calculated to create a state of terror in the minds of public figures or a group of persons, or a group of persons, or the general public».

The report of the Special Committee on International Terrorism of the United Nations, describes terrorist acts as «criminal acts directed against a State or the population of a State and calculated to create a state of terror in the minds of public figures or a group of persons, or the general public».

The report of the Special Committee on International Terrorism of the United Nations General Assembly (34th session) states that terrorism may take the form of acts performed by a state, and Israel is one of the very few states - if not the only one within the entire international community - holding the struggle of a national liberation movement, whatever the means it employs, to be action of a terrorist nature. Hence the provisions of positive law may legitimately be taken to signify that certain acts may be effectively qualified as «acts of State terrorism».

The 4th Geneva Convention of 1949 provides that «collective penalties and likewise all measures of intimidation or of terrorism are prohibited» (Art. 33). But during the Israeli «reprisal» air-raids on Lebanon (which still remains partially occupied by the Israeli army) it is impossible to make any practical distinction either between military objectives and civilian populations or between Palestinian and Lebanese citizens, and such raids may be classed as acts of terrorism (See, too, in a similar vein, Arts. 51.2 and 54 of the First Protocol additional to the Geneva Conventions of 1949).

The First Protocol prohibits «acts or threats of violence the primary purpose of which is to spread terror»; yet such is officially the very purpose pursued by the Israeli armed forces, which are out to «dissuade» the militants in the Palestinian camps and their Lebanese «accomplices» from taking action counter to the interests of the occupying forces. The protocol goes on to condemn indiscriminate attacks launched to no great military advantage, and this is precisely the case of the Israeli raids on Lebanon; their purpose is political rather than strategic and the facts show that they are not bringing the resistance to occupation and aggression to an end.

Furthermore, Resolution 40/61 of the United Nations General Assembly, adopted by consensus on 9-12-1985, which places a general and universal prohibition on terrorism, whether in peace or war,

condemns, as criminal «all acts, methods and practices of terrorism, wherever and by whomever committed» (thus clearly referring to states as well as to individuals), and more especially censures those acts which compromise friendly relations between states and jeopardize their security (§1). Paragraph 2 adds that acts of terrorism are to be distinguished by the fact that they result in «the loss of innocent human lives». As noted by Amar Bentoumi, the criterion adopted by the United Nations when defining terrorism is thus merely the causing of the death of innocent victims(6). But notwithstanding its inadequacy the definition, it should be realized, permits us to qualify the Israeli raids on the Palestinian camps as clear «acts of terrorism». These raids (which are frequently accompanied by house-to-house searches carried out by the army) regularly cause civilian casualties (both Palestinian and Lebanese) and affect Israel's relations with all the other states of the international community (as may be seen from the debates and the votes taken in the General Assembly and on the Security Council), and more particularly with the Arab states and naturally with Lebanon, while gravely compromising their security.

Leaving aside the complex question of the legal value of the United Nations General Assembly resolutions - and thus of Resolution 40/61 - it is perfectly legitimate to interpret the international law currently in force in the spirit of this latter resolution, which was adopted *nem. con.* by all United Nations member states. The Geneva Conventions place the prohibition on State terrorism on a genuine legal basis.

The Israeli raids on Lebanon may hence be qualified in law as «acts of terrorism» and the Israeli practice of State terrorism renders Israel liable for sanctions on the part of the international community, or at the very least is a source of liability for the Israeli State.

CONCLUSION

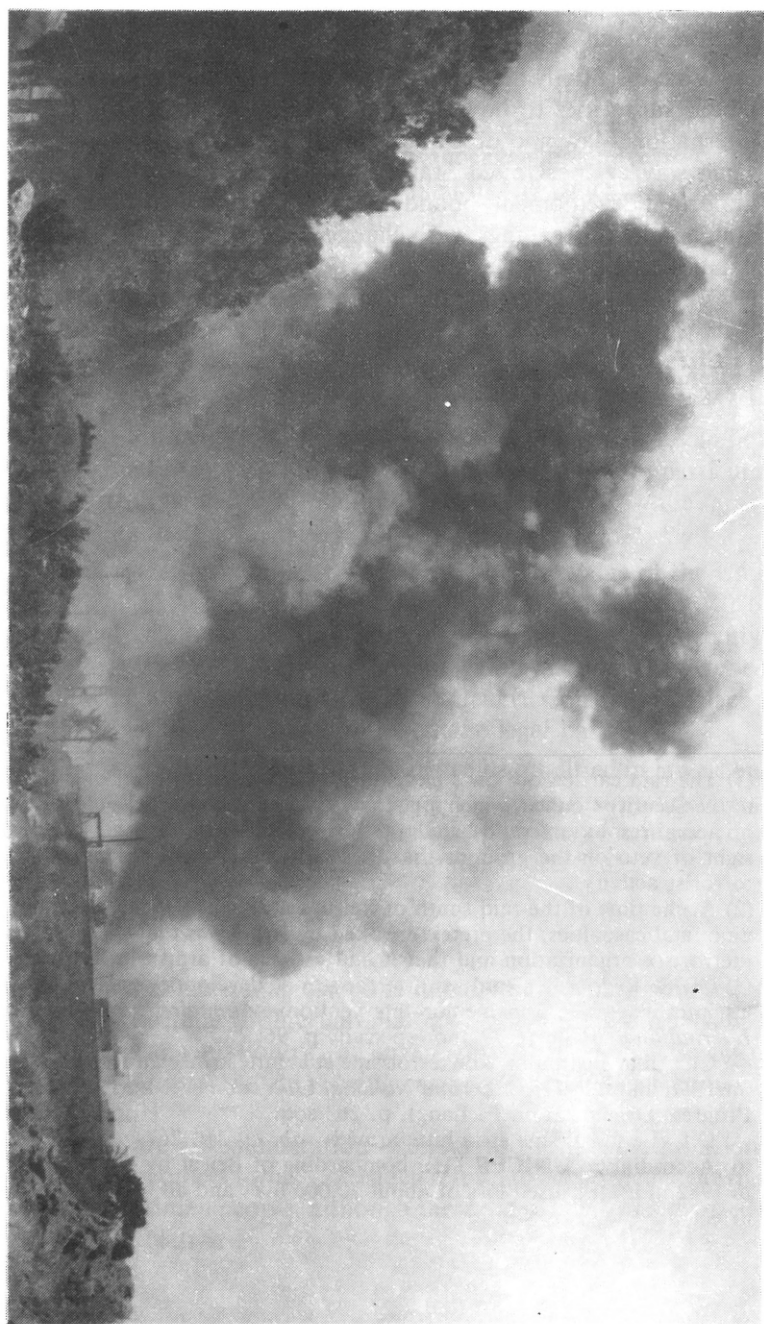
The raids on the Palestinian camps in Lebanon are highly symptomatic of the Israeli attitude to international law and to the United Nations.

- i. There is clear violation of the sovereignty of the Lebanese state.
- ii. Grave material prejudice is being caused to the United Nations and its personnel.
- iii. The raids are a demonstration - similar to those occurring in other places and in others forms - of Israeli refusal to acknowledge the rights of the Palestinian people, although these are officially recognized by the United Nations.

- iv. There is violation of humanitarian law.
- v. State terrorism is being practised.

What essentially matters is perhaps that the raids clearly show the Israeli authorities to be more and more overstepping the limits of international law and of United Nations regulations, exactly in the same way as the United States and South Africa. This is a very important development, bound up with the evolution of the situation and, among other things, with changes in the political and ideological balance of forces. Israel appears to be tending to base itself less and less on generally accepted principles of international law and to adopt increasingly «flexible» legal interpretations possessing less and less justification - an attitude in which it is supported and imitated by Reagan Administration.

- (1) The raid carried out on 2 December 1975 was the subject of a meeting of the Security Council, which unanimously condemned Israel's conduct. But no actual resolution could be adopted because the United States used their right of veto on the grounds that there was no similar condemnation of terrorist activity.
- (2) At the time of the raid south of Beirut on 22 April 1988, which caused nine fatal casualties, the pretext invoked by Israel was that the PLO was a «terrorist» organization and that it had «stocks of arms» in Lebanon.
- (3) Cf. S. Regourd, «Raids anti-terroristes et développements récents des atteintes illicites au principe non-intervention», *Annuaire Français de Droit International*, 1986, p. 79 and especially p. 96.
- (4) Cf. Amar Bentoumi, «Le terrorisme et la lutte armée au regard du droit international», in *Terrorism and National Liberation* (Vienna, International Progress Organization, P. Lang), p. 263 sqq.
- (5) Cf. «Le terrorisme et la lutte armée», *op. cit.*, p. 267.
- (6) According to UNICEF THE bombardment of Beirut by the Israeli army in 1982 in itself caused loss of about 30,000 lives and all nationalities were affected.







**MISSION OF ENQUIRY
TO THE OCCUPIED TERRITORIES
OF THE WEST BANK AND GAZA STRIP,
BY FRANÇOIS BAILLY (AVOCAT)
AND BILL BOWRING (BARRISTER),
27 JUNE TO 3 JULY 1988.**

**INTERNATIONAL ASSOCIATION
OF DEMOCRATIC LAWYERS**

This report by the International Association of Democratic Lawyers of their mission of enquiry to the occupied territories of the West Bank and the Gaza Strip is an important contribution to the international efforts to secure the end of the Israeli occupation.

This is an eyewitness report by two distinguished lawyers, Franco is Bailly (Belgium) and Bill Bowring (UK) documenting their visit to occupied territories of the West Bank and the Gaza Strip during the period 27 June - 3 July 1988.

During their one week visit, the authors of the reports interviewed Israeli Jewish and Palestinian Arab heads of organizations and institutions, visited Palestinian towns, villages and refugee camps throughout the West Bank and the Gaza Strip, attended a session at the Ramallah military court and had the occasion to witness encounters with the Israeli army.

In their detailed conclusion regarding the violation of international law by the Israeli occupation authorities, specifically violations of the Fourth Geneva Convention with Reference to the Protection of Civilians in Times of War of 1949, the Hague Regulations of 1907, and the Universal Declaration of Human Rights of 1948, the authors deliberately refrained from drawing general political or legal conclusions. They sought to set out as accurately as possible what they saw and what they were told, and to place these findings in the context of the relevant principles of international law. It is our responsibility now to take this testimony and bring it to the attention of concerned public opinion throughout the world with the urgent appeal to join the Palestinian people of the intifada and mobilize all resources nationally and internationally to bring the Israeli occupation to immediate end.

INTRODUCTION TO THE REPORT

The «intifada» or uprising of the Palestinian people in the Occupied Territories of the West Bank and Gaza commenced on 9 December 1987. It is admitted, even in Israeli circles, to be a qualitatively new development of resistance to occupation, and is characterised by a very broad-based and democratic network of committees at a village and neighbourhood level, with a «Unified National Leadership of the Uprising» insisting on allegiance to and support for the PLO.

From 9 December 1987 to 28 July 1988 over 319 Palestinians have died during the intifada (214 from gunfire; from beating, electrocution, and stoning, 20; deaths related to teargas, 59; deaths under suspicious circumstances or indirect official responsibility, (2); (source : Database Project on Palestinian Human Rights, Chicago) and there are more than 17,000 Palestinians in prison, 5,500 of whom are administrative detainees. Between 9 December 1987 and 29 April 1988 there were 4148 Palestinian injuries : 392 caused by live ammunition; 287 by rubber bullets; 1283 by beatings; and 1020 by tear gas. (Source : News from Within, Jerusalem) The remaining injuries were caused by unknown means.

The Palestinians have in contrast shown great discipline, and very few Israeli soldiers have been killed or seriously hurt, even when the opportunity presented itself.

All Universities and institutions of Higher Education (14,000 students) have been closed since October 1987; and all schools were closed between 3 February 1988 and 23 May 1988, although many schools are still closed from day to day by the occupying forces.

At the time of our visit, there were some 50-60 clashes and demonstrations each week. Although these were in general fewer and of less intensity than in the early stages of the intifada, the struggle had reached a stage of the intifada, the struggle had reached a stage of consolidation, characterised by resignations of municipal officials, the economic boycott of Israeli goods, the refusal to pay taxes; and strikes, particularly commercial strikes. It now appears that our visit occurred during something of a temporary slackening of the tempo of the uprising;

information we have received since shows that both repressions and resistance to them have recently increased.

In their turn, the Israelis continue to carry out brutal attacks particularly in the camps and villages; and are turning increasingly to economic pressure, especially with regard to taxes. In addition, there are many instances of house demolitions, and the confiscation of land. Of course, our visit took place shortly before the entirely unexpected decision of King Hussein of Jordan on 31 July 1988 to renounce sovereignty over and no longer to provide funds for the West Bank. Many of those we met received salaries from Jordan, in particular the staff of Bir Zeit University, which has been closed for so long. We have no doubt that in the short term there will be a great deal of suffering, at least until the PLO are able to resume funding themselves. The Israeli authorities do everything in their power to prevent money being sent from abroad.

SOME OF THE ARABS AND JEWS MET BY THE MISSION

On the Arab side, we met *Ziad abu Zayyad*, Editor of «GESHER» (Bridge), only Palestinian publication in Hebrew. He has law degrees obtained in the West Bank (then Jordan) and at Damascus University. From 1977 to 1983 he worked on «El-Fajr» (the Dawn), and then practised as an Advocate in Ramallah from 1983 to 1986 when he started his own paper. We also met Adil Yahya, a teacher at Bir Zeit University, now wanted by the authorities. He trained at the University of Pennsylvania, having got his BA at Bir Zeit, where he started to teach in 1986. He told us that the Israelis say 9,000 Palestinians are in detention, but he thinks there are 18,000.

He told us that every day in Ramallah there are demonstrations between 11.30 and 12.00 am. These are not massive demonstration nowadays, as tactics are developing, but small groups of children leaving school who throw stones at the soldiers. Although 23 schools have been closed in Nablus and 3 in Jerusalem, none have been closed yet in Ramallah.

He related to us the effects of the curfews now imposed on many camps and villages, when residents are forbidden to leave their homes for any periods, and electricity and water are frequently cut off. These curfews are undoubtedly collective punishments.

He also showed us yellow coloured leaflets in Arabic distributed by the Israeli occupation forces threatening villagers with being prevented from cultivating their fields or sending their children to school if resistance continues.

We were fortunate to have a meeting at his home with *Nidah Taha*, Ramallah advocate and specialist in land cases. He told us of two kinds of land confiscation : official, where land is taken by military orders; and obtaining by fraud, which was carried out on a large scale by Israeli commercial companies until about 1985, when, after a Palestinian death, Mr Taha assisted in bringing this racket to the attention of the press, and a number of Israelis were prosecuted.

Now, most confiscations are carried out by the Israeli armed forces. Mr Taha represents his client at the Objection Committees established under Military Order 972, which are the only appellate bodies in such cases. The committees are composed of 3 Judges, of whom one is a lawyer; and the person whose land is to be confiscated must prove documentary title to his or her own land. Since only 25% of titles were registered under the Jordanian system before the Israeli invasion in 1967, this is practically impossible in many cases, however long the person concerned has farmed the land, and however many witnesses he or she can call from the village. Mr Taha has a very low success rate.

Mr Taha also explained to us that in principle Jordanian civil law still applies in the Occupied Territories, with Courts in the main centres, and a Court of Appeal in Ramallah. However, that civil law has been extensively amended and overlaid by a very large number of Israeli Military Orders.

We were very impressed by *Zahira Kamal* of the Union of Working Women's Committees, who explained the work of her organization, which is one of four very extensive networks of women's Committees. She is also a Committee member of Ina'sh Al-Usra. The UWWC had 6,022 members in March 1987, and had expected 10,000 members for their 5th Conference, which should have been held in March 1988, but was postponed because of the intifada.

She gave us a list of women who have been detained : Rana Hatem Muhamad Snan, 23, detained for six months on 12 April; Mariam Ali Musa Ismail, 27, detained on 24 March for six months after 33 days interrogation; Husniyye Dahoud Mahmoud Abdelkader, 35, detained for six months on 27 April; Naheda Nazzal, 28, detained for six months on 29 March; and Amal Wahdan, 30, detained for six months on 15 April. She has two children aged 2 and 4. Her husband is also in prison. Her sister in law was only allowed to visit her after 50 days. All these women have been detained without charge.

At the end of our visit we met *Mr Faisal Al-Husseini*, the Chairman

of the Arab Studies Association, which was founded in 1980 as a research institute and resource centre to provide information about the political, cultural, social, economic and historical conditions of the Palestinian people. He was kept under town arrest for 5 1/2 years, and then in administrative detention from April 1987 until 9 June 1988, with only a short period of freedom. He has appealed twice to the Israeli High Court, but neither he nor his lawyer were permitted to see the documents which supported his detention. It is alleged that he is a senior member of Fatah, even though he has for many years now espoused meeting with Jewish representatives, and a peaceful solution. His case has been taken up by Amnesty International. We were taken on a tour of the ASA building, where much important cultural work was being carried out. (On July 31 1988 the Israeli authorities ordered the ASA closed for one year, and place Faisal Al-Husseini in administrative detention once more for six months).

We were also able to meet a number of leading Jewish oppositionists. We arranged a meeting with *Dedi Zucker* an MK (Member of the Knesset, the Israeli parliament) and leader of RZ, «Citizens Rights and Peace Movement» which was formed 15 years ago and now has 5 MKs, and hopes to have 5-8 in the November elections. He is a Zionist, but anti-clerical and «radical», as is his party, which is social-democratic on economic policy, very radical on peace issues and citizens' rights. Their list, as opposed to that of the PLP which is mainly Arab, is mainly Jewish. Three issues concerned him most : the administrative detentions; the fact that Palestinians were subjected to so many beatings and kickings; and the bureaucratic harassment and «general craziness» inflicted by the Israeli state on Palestinians.

He told us that he was not so concerned about the prisons : when he had been there (and he had visited Ansar III three months before) he had talked to the prisoners privately and asked them whether they had been humiliated. No-one told him they had been humiliated.

He said that the Israeli army was pluralistic with many different age-groups and educational and cultural backgrounds. The combat units such as the paratroops were less bad than others, and did not suffer from a lack of self-confidence. The reserve units, composed of older men, were also better than others.

He saw no possible developments before November 1988 except getting used to the present state of affairs. There was a possibility that the Likud would win; and also a possibility that Labour would form a government.

He felt that the present situation was not black and white, but more complex. There were questions of human rights; of the relations between occupier and occupied. He felt that the PLO and Israeli government were both to blame : these were two stubborn leaderships. In this complex situation - first, there were so many Likud votes ready to support peace in the Occupied Territories, with talks with the PLO and research into developing Arab towns; second, there was still great support for Kahane and his extremist groupings; third, more than half the Israeli public were in favour of talks with the PLO. He found in his own work, again and again, that there was potential for political progress. But both sides, Israeli and Palestinian were unable independently to produce a political initiative : the right-wingers on both sides had a veto power. But there was the possibility that both sides would respond to pressure from outside, if the two super-powers could reach agreement, as in Afghanistan. The Soviet Union was shifting its policy. There was potential if both the USSR and the USA really looked for a settlement of regional conflicts. He was opposed to a one-nation solution; that was a recipe for bloodshed. For him, a border was needed, and two states, Israeli and Palestinian. The two nations had already suffered enough.

We obtained another impression of the conditions at Ansar III from *Mrs Felicia Langer* a Jewish Advocate, very active in human rights cases. Her clerk Leila has been many times to Ansar III and has brought out a letter in English, of which we were given a copy, protesting about the inhuman conditions in the camp. In part, it reads : «There is scarcity of water for cleaning, drinking and bathing. Poisonous scorpions, snakes and poisonous spiders go here and there inside and near the tents, and other strange insects which endanger our life. Because of the high temperature and dusty climate, many diseases occur, as the skin-lesion and sunburn. Besides, the medical treatment is not effective, WCs are not covered, and they send out an ugly and bad scent, which results in diseases».

Mrs Langer also gave us details of a current house evacuation case in which she was at that very moment involved. A family had been given 48 hours to evacuate their house, on the roof of which the Army had had an observation post for some years. Mrs Langer managed to get an Interim Injunction restraining the evacuation Order; but was doubtful of eventual success.

On the anniversary of the «Unification» (for which read «Annexation» or «Occupation») of Jerusalem by Israel, we attended an «*End the Occupation*» demonstration called by the Israeli organization of the same

name, and held in a prominent position in West (Jewish) Jerusalem. About 40 people were present, despite heavy police pressure (although without overt violence), harassment, and vicious abuse from passing extremists. We were told about the six-month jail sentences received that week by four Jews, Eliezer Feiler, Yael Lotan, Latif Dori and Reuven Kaminer who were participants in the Israeli delegation which met PLO representatives in Rumania in October 1986. *Alternative Information Service* (which produces the very valuable newsletter «News from Within») which had in February 1987 been raided and closed down; only some of their equipment had been returned, after a judicial review to the High Court on 19 May 1988. Their computers, printer, FAX machine, subscribers and address lists and manuscripts have not been returned. They also told of the impending trial of Michel Warshavsky (Mikado), the Director of the AIS, charged, together with the AISW, on the flimsiest of evidence, with rendering typesetting services to a prohibited organization, and with possession of materials belonging to a prohibited organization, under the Emergency (Defence) Regulations (1945), and with support of a terrorist organization, under the Prevention of Terrorisme Ordinance (1948). In fact he has supported the Palestinian cause. He may receive a sentence of up to 23 years. In general, Israeli Jews convicted of refusal to serve in the Occupied Terrirories, or of contact with the PLO, receive much heavier sentences than soliders convicted of brutality.

TOWNS AND CAMPS VISITED BY THE MISSION

We visited Ramallah, El Bireh, Hebron, Idna, Bethlehem, Bet Sahur, Gaza City, and Farah Camp near the Egyptian Border. So even though we were only in the Occupied Territories a week, we covered a great deal of ground. Our only regret was that we were unable to get to Nablus, Jenin or Tulkarm.

ENCOUNTERS WITH THE ARMY

We had direct encounters with the Israeli Army on three occasions. One, In Ramallah, we were in the flat of Mr. *Abu Samrah*, a teacher from Bir Zeit University, when we heard a loud commotion in the street. A group of paratroops had pulled a boy off his bike, first alleging «he threw stones yesterday», then «he put tyres in the road yesterday». One soldier told us, in English, «Tell that woman (the boy's mother) to stop shouting or we'll blow his head away». Because, to an extent, of our presence, and because so many people came into the street, the boy was released. We noticed how indisciplined the soldiers were, and how they

appeared to «play» aggressively with their weapons. But we were told that the paratroops were the least bad: the «Golanis» were the worst. They had gone into the local refugee camp saying «We are the Black Scorpions; we want to see blood!». While we were in Rafah camp in the Gaza strip, a truck-load of soldiers ran to us, and came close to seizing the camera of M. Bailly. His Belgian passport persuaded them otherwise. Finally, in Idna, we were aggressively questioned by a truckload of soldiers, who later, and quite demonstratively, arrested a boy in front of us.

THE MILITARY COURT AT RAMALLAH

We travelled with *Abed Asali*, a Ramallah advocate, to Ramallah Military Court, and witnessed a trial presided over by Judge Perman, a Jewish lawyer serving as a reservist. A 16-year old boy was convicted of participating in stone-throwing, although no witness identified him throwing stones, but only because he was running away from soldiers when caught. The Judge said that he should have stood still, even though the soldiers were shooting. The boy was sentenced to 6 months imprisonment, with a further 1 year suspended for 3 years. At the Court we met an Arab Advocate *Ziad Jazer* from Bethlehem, who was, for the first time in his experience, and probably because of our presence, permitted, despite the fact that he did not represent the boy, who had no lawyer in Court, to speak in mitigation for him. We had the impression, confirmed by Mr Jazer, that the trial took a great deal longer than usual, with the Judge adopting a particularly formalistic approach, because of our presence. We also saw a large number of cases being adjourned to dates in August or later, when soldiers could attend to give evidence; thus the period held in custody on remand can be very extensive. Our general impression of the Court was that many soldiers continually walked in and out of the court-room, with their guns. We were clearly only there on sufferance. We heard that only a short while previously, an American lawyer had been ordered out of the Court at gun-point.

IN'ASH AL-USRA (THE FAMILY REHABILITATION SOCIETY) : A SPECIAL CASE OF COLLECTIVE PUNISHMENT.

We met *Mrs Sameeha Khalil* and members of her Committee at *Ina'sh Al Usra* in Al-Bireh, Ramallah. This charitable Society has helped 34,000 people; 1,300 families each week with money; 123 girls 4-16 years old live at the Society; 4,800 women and girls make embroidery by hand; there are 152 employees; and 150 children are cared for in the day-care

kindergarten. The monthly budet is \$210,000.

The Society was raided by the Army on 8 June during curfew hours and large quantities of material removed. Mrs Khalil, aged 65, was in the ensuing days summoned for questioning and charged.

On 20 June again during curfew at one o'clock in the morning Mrs Khalil was summoned to the Society where an Order of Closure of all parts except the Day Care Centre and Home until 16 June 1990 was served on her. The doors of all the money raising parts of the Centre - Workshops and training rooms - together with the kindergarten kitchens, were, as we saw with our own eyes, welded shut by the Army. No receipts were given for materials taken away.

Mrs Khalil is now charged with incitement and sedition. The pretexts are : an anti-semitic video tape allegedly found in the Society, of which all knowledge by her or the Society is denied; a box of Palestinian flags dating from 20 years ago; and Mrs Khalil's openly expressed support for the PLO. Mrs Khalil asked if the IADL could arrange for an observer to attend her forthcoming trial.

Mrs Khalil and other women from her Committee (and they were all very formidable women) told us about the present difficulties with Tax Exemption certificates (that is, certificates that tax has been paid), which are necessary for obtaining any permit or license, and which may be used as a pretext for closing down the kindergarten. (A certificate has been demanded, even though the kindergarten, as a charity, does not pay tax. The Society wil refuse to comply). We were also told that the Israeli authorities use similar methods to try to force Palestinian patriots to deal with the Village Leagues and other collaborators, of whom there are very few.

RAMALLAH

In Ramallah we also had a meeting with *Al-Haq — Law in the Service of Man* Centre in Ramallah. This is a resource and research centre which is a branch of the International Commission of Jurists. Its staff includes Emma Playfair, an English Solicitor, and an English Barrister, Candy Whittime. We were given a great deal of information by *Emma Playfair* and by *Khalid Batrawi*, the Centre's Fieldwork Co-ordinator. *Four out of five of their field workers are now in administrative detention, held in Ansar III.*

They identify recent developments as : less incidents in the big towns, but more brutal incidents in the smaller villages and camps; and increased use of economic pressure, like the tax exemption certificates. They told

us about confiscations and demolitions in BEIT UNMAR and HAL-HOUL; and curfews in TULKARM completely cut off since June 6, BEIT FURIK under curfew since 18 June, KHARABATHA BANI HARITH under curfew since 25 June, DHANABA under curfew since 6 June, ANABTA under curfew since 11 June. Electricity and water are frequently cut off. During curfew no-one can leave their houses, even to farm. Three days ago the Principal of the UN Preparatory School at Ramallah, Mr Hraish, Had been beaten by soldiers and his school closed for two days after, it was claimed, boys had thrown stones at soldiers in the next street. To 20 June there had been 274 Martyrs to the intifada; since 1 June, 12 on the West Bank, 3 on the Gaza Strip.

THE GAZA STRIP

We travelled to Gaza and met UNWRA Representatives, with whom we travelled through Gaza City to Rafah, the Egyptian Border, and the Rafah Preparatory School «A», who described a recent attack using tear gas on her school. We saw a house for ten people which had been demolished as a reprisal; these people now had to live in a tent. A boy showed us where he had been hit in the leg with a dum-dum bullet. The people showed us plastic bullets, and recent gas canisters. Later that day we met Ayoub El Alen Deputy Field Health Officer at the UNWRA Clinic in Rafah. He says that in the last month there had been a decline in the use by the Army of tear gas, and no fractures caused by beatings. When beatings are carried out now, care is taken to hit the abdomen etc. He told of a number of abortion cases probably caused by tear gas.

Two days ago there were 30 cases of tear/nerve gas injury at NUSIRAT camp. There were still beating cases at JABALIA. He spoke particularly of grave medical problems caused by curfews, when Mr El Alen and his staff cannot get in to test the water, give immunisation, etc.

ANSAR III (KETZIOT) DETENTION CAMP

Jonathan Kuttub, Advocate, was the day before meeting us at Ansar III, which is at KETZIOT, 70 km south of Beer Sheva, in a closed military zone. There are 2000 administrative detainees there, who live in tents, in fenced compounds. Only groups of 28 prisoners in each compounds. Only groups of 28 prisoners in each compound can communicate with each other: there is strict isolation. No singing, communal praying, radio, TV, books, exercise is permitted. He spoke of the inhuman conditions : the heat, dust, the flaps of the tents are always open, allowing in scorpions, snakes etc. There is no variety in the food : bread with margarine and one spoonful of jam for breakfast and supper; rice with

very bad vegetables for lunch. There is an egg once a week. Many prisoners speak of slow starvation. The prisoners must stand outside for 3/4 hours a day being counted. He saw 30 clients, after long delays. We ourselves were not permitted to go there. (We subsequently heard that in about the third week of July 1988 the prisoners rioted in protest against their conditions, and there were killed).

HEBRON AND IDNA

In Hebron, we met *Dr Natcheh* at his clinic. He told us that there are 100,000 Arabs in Hebron, all Moslems - Ramallah, in contrast, has many Arab Christians - 200,000 in the village surrounding it. There are 5,000 Jewish settlers in Hebron, who have seized school buildings and the bus station in order to establish provocative illegal settlements. Dr Natcheh was a candidate for Deputy Mayor in 1976, but a few days before the election was expelled for three years. He told about the notorious Jewish settlements, especially KIRIAT ARBA. All the settlers are, by law, armed at all times. Last week a settler had been stabbed in Hebron, and opened fire with his Uzi. Settlers and the army went to a village and demolished the house of the father of the boy who stabbed the settler.

A student from the University took us round Hebron, and showed us the fortified settlements where concrete barriers have been erected and shops demolished, and the desecration by the Israelis of the Mosque at Tombs of the Patriarchs. We saw soldiers inside the gates of the Mosque, and synagogue activity which had progressively and with the support of the soliders impinged on the mosque.

Dr Natcheh took us to the village of IDNA, which has a population of 15,000. The intifada began there on 20 December 1987 with the erection of barricades, and for some days the Army was excluded. On 2-4 January 1988 a large number of Committees were formed for medicine, health, education, food, etc, with a central committee. On 6 February the village was placed under curfew for 6 days, and from 7 March the village was placed under total siege for 23 days. The farmers could not reach their fields, and no supplies came in. Attempts were made to force migrant workers to go to work in Israel. On 1 April 1988 Jamel Jweizi and Ishaq Al-Salimi were killed by bullets fired from an Army helicopter; and on 22 April Faraj Farajallh was killed. A plaque to these three martyrs has been erected in the centre of the village.

There is now an army camp of 200 soldiers next to the school, and there are frequent skirmishes between schoolchildren and soldiers. The village is solidly for the intifida. We saw houses full of bullet holes, where

everything had been smashed up by soldiers as a reprisal. There are frequent incidents, and a threat by the army to demolish 150 houses, which have allegedly been built without licence.

BEIT-SAHOUR

BEIT SAHOUR is a suburb of Bethlehem, with many large villas, where professional people live. We met *Professor Jad Ishaq* who commenced with some friends, all professionals (engineer, teacher, dentist) a project called «The Shed» for joint purchase of seeds etc on 13 March 1988. They were subjected to considerable harassment by the Army, and were forced to close on 5 June. We had tea with him, Serge Descy a Belgian theologian, and an American Mennonite missionary. He is a Christian. Later, his wife and children showed us fields where many intellectuals now help in food production. (From 7 to 17 July 1988 Beit Sahour was under military curfew, deliberately preventing the tending of the fields we had seen, and on 7 July 1988 300 Israeli soldiers entered the town at 4.30 am, arresting a number of people including Jad Ishaq, who has now been placed on 6 months administrative detention, probably at Ansar III. 200 people were arrested during the curfew, and telephones and electricity were cut. On July 17 the Greek Patriarch threatened to go on hunger strike unless the curfew was lifted; but mass demonstrations have continued.) (Source; DPPHR, Chicago).

CONCLUSIONS :

(General remark : Israel has ratified the *Fourth Geneva Convention with Reference to the Protection of Civilians in Time of War (4GC)* of 1949, but maintains that the Convention does not apply to the Occupied Territories on the West Bank and the Gaza Strip, while declaring that it voluntarily observes the humanitarian principles contained in it.)

COLLECTIVE PUNISHMENTS

Collective punishment is absolutely prohibited by *Article 50 of the Hague Regulations of 1907 (HR)* and *Art 33GC*, which provide that reprisals against protected Persons and their property are prohibited; by *Arts 10, 12 and 17(2) of the Universal Declaration of Human Rights of 1948 (UDHR)* which provides that *no-one shall be tried or punished without due process of law; and that no-one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.*

We saw instances and heard, from reliable sources, of many more of : the imposition of «curfews» where no-one may leave their houses, for periods of weeks; the cutting off electricity and water; the partial

closing of a charitable society, Ina'sh Al-Usra; the shooting up and smashing up of houses; the harassment of civilians in the streets and by the imposition of the requirement to produce a certificate of payment of Israeli taxes before obtaining any permit or certificate - all examples of punishment of or reprisals against whole communities carried out by the Israeli occupying forces.

HOUSE DEMOLITIONS

Art 53 4GC provides that house demolition is permitted only where such destruction is rendered absolutely necessary by military operations; and *Art 23(g) HR* provides that demolitions are permitted only where imperatively demanded by the necessities of war. The International Committee of the Red Cross has advised that «military operations» means «the movements, manoeuvres and other action taken by the armed forces with a view to fighting». We would be surprised if the Israelis consider themselves to be undertaking military operations in that sense.

We saw many instances of houses which had been demolished, purportedly under *Regulation 119(1) of the Defence (Emergency) Regulations 1945*, under powers contained in the *British Palestine (Defence) Order in Council 1937*, but revoked by Britain in 1948; these demolitions, leaving large families homeless, are carried out expressly as reprisals - «to achieve a deterring effect» as Justices M. Alon, D Levin and M. Ben-Dror held in the Israeli High Court in *Mazen Abdullah Said Daghlas and others v The Military Commander of te Judea and Samaria Region* (HCJ 698/85). (Between 26 July and 25 July 1988 at least 41 houses were demolished or sealed; of these, 17 were demolished for «security offences»; 21 were demolished as unlicensed; and 3 were sealed for «security offences».) (Source; DPPHR, Chicago.).

ADMINISTRATIVE DETENTION

Arts 9 UDHR and Art 9(1) of the International Convention on Civil and Political Rights both provide that no one shall be subjected to arbitraty arrest or detention. *Art 10 UDHR* provides that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him. *Art 78 4GC* provides that if the occupying power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or internment. But *Art 6 4GC* provides that provision shall cease to apply one year after the close of military operations.

Military Order 378 enables an Israeli Soldier to arrest any person without warrant for 18 days on suspicion of having committed a security offence. The occupying forces also rely on *Art 111 of the 1945 Defence Regulations; Law N°. 5739 of 1979, Emergency Powers Law (Detention); Military Order 1220 of 3 February 1988; and the Military Order of 20 March 1988*. Any military commander may now order the detention of any person for six months, subject only to appeal to a military appeal committee (there was till March 1988 an appeal to the High Court by way of Judicial Review).

Many thousands of people have now been arrested and held without trial. We met Dr Jad Ishaq of Beit Sahur, whose «offence» was to open, with friends, a garden centre. He has not been accused of any military or security offence. We had tea with him, his wife and children. He has now been placed in administrative detention (Guardian, Wednesday 13 July 1988). 4 out of 5 field-workers of Al Haq, Law in the Service of Man, Ramallah, a Section of the International Commission of Jurists, have been placed in administrative detention. No reasons are given.

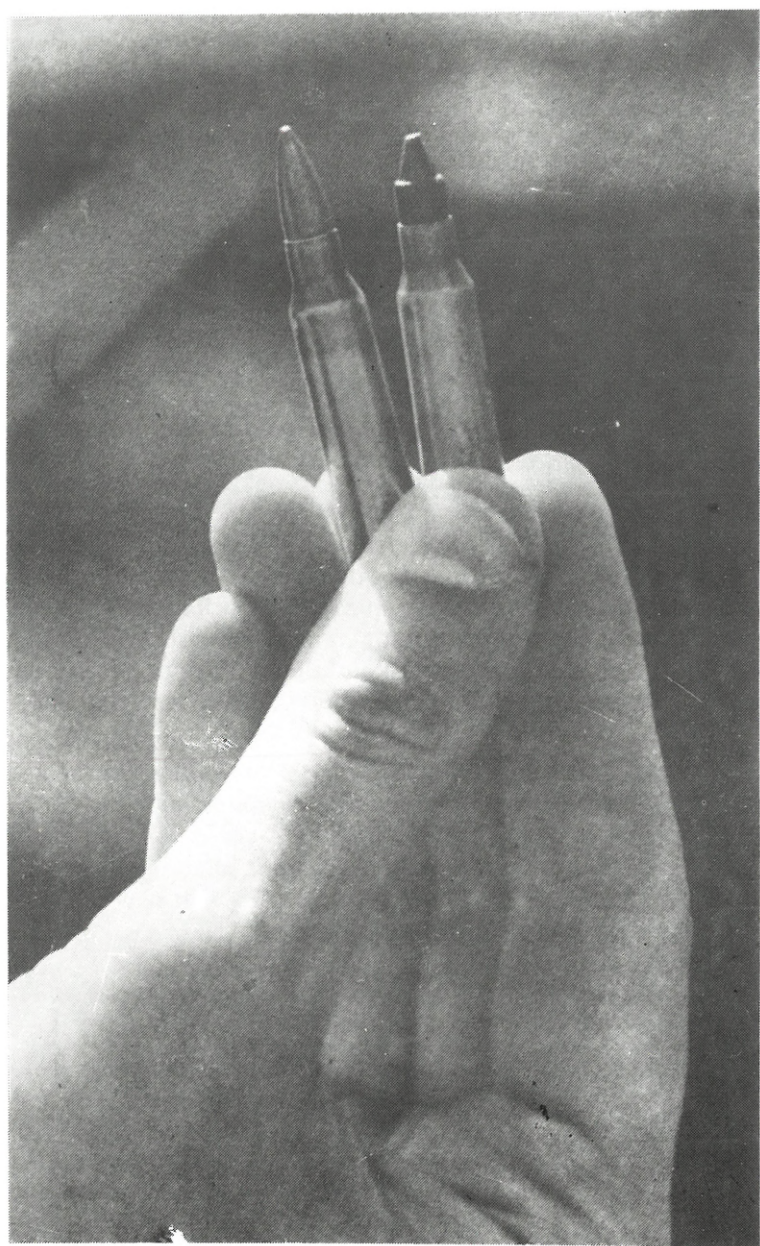
Detention Camps

Art 76 4GC provides that detainees must be detained in the occupied country and if convicted they shall serve their sentence therein. The UN Standard Minimum Rules for Treatment of Prisoners and *Israeli Military Order 29* provide for minimum standards of nutrition, accommodation, exercise, access to news, family and lawyers. By the Israeli Regulations, inter alia detainees shall enjoy the same food as the guards.

Several thousand unconvicted detainees are held unlawfully at Ketziot (Ansar 3) in Israel in the Negev Desert, under canvas, in extreme heat and cold, with minimum facilities, food, water or access to lawyers. We could not gain access, but spoke with lawyers who had just been there. We have copies of letters smuggled out. For instance, the Al Haq field-workers are held there.

We have quite deliberately refrained from drawing general political or legal conclusions : that would be presumtuous after a visit of only a week. Instead we have sought to set out, as accurately as possible, what we saw and what we were told; and, in our conclusions, to place those findings in the context of the relevant principles of international law.







منظمة التحرير الفلسطينية
الإعلام الموحد

PALESTINE LIBERATION ORGANISATION
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